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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,806	01/02/2004	William H. Bridge JR.	50277-2358	1803
29989 7590 02/19/2008 HICKMAN PALERMO TRUONG & BECKER, LLP 2055 GATEWAY PLACE SUITE 550 SAN JOSE, CA 95110			EXAMINER FLEURANTIN, JEAN B	
			ART UNIT 2162	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/750,806

Applicant(s)

BRIDGE ET AL.

Examiner

JEAN B. FLEURANTIN

Art Unit

2162

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This is in response to Applicant(s) arguments filed on 09/21/2007.

The following is the current status of claims:

Claims 1-20 remain pending for examination.

Applicant's arguments filed 12/06/2007, with respect to claims 1-20 have been fully considered but they are not persuasive for the following reasons, see sections (response to arguments) and II (repeated rejections).

Response to Arguments

- I. Applicant's arguments start from page 8 through page 19.

Applicant's arguments with respect to claims 1-20 have been fully considered but they are not persuasive in part. Because, the prior art of record discloses the claimed limitations.

Applicant(s) argue(s), pages 8-12, Section (35 U.S.C. §112 Rejections), that '... This rejection is respectfully traversed . . . Further, the Office Action fails to identify any statement in the Specification, or made by the Applicant elsewhere, that even remotely implies that the invention recited in Claims 1-8, 10-17, 19, and 20 could not be practiced in the absence of unclaimed elements, namely "determining a required recovery time, wherein the required recovery time indicates a maximum length of time that is to be allowed for recovering after said database system failure." Therefore, any attempt to force such unclaimed elements into Claims 1-8, 10-17, 19, and 20 would unduly narrow the claim.'

The arguments have been fully considered but they are not persuasive. Because Applicant fails to recite "determining a required recovery time, wherein the required recovery time indicates a maximum length of time that is to be allowed for recovering after said database system failure", causing the claim to be missing some essential steps. Applicant statement found on the last paragraph of page 11 to first paragraph of page 12, is confusing because it appears that the Applicant arguing a 35 U.S.C. § 112 first

paragraph issues, whereas a 35 U.S.C. § 112 second paragraph was made. *The 35 U.S.C. §112 rejection is maintained.*

Applicant's argument, page 12, Section (35 U.S.C. §101 Rejections), that "... Claims 1-9 and 19 clearly fall into a statutory category because the claim limitations "storing a checkpoint value" and "writing changes from volatile to non-volatile memory" (from independent Claims 1 and 9) indicate a useful and tangible result, namely, the act of "storing" and the act of "writing." To categorize each of these limitations as an abstract idea, law of nature, or naturally occurring phenomenon is ludicrous on its face. Applicants are unaware of any human capable of, for example, "writing changes from volatile to non-volatile memory to advance a checkpoint value" in their head. As such, the rejection alleged by the Office Action is not understood by the Applicants. ..."

The arguments have been fully considered but they are not persuasive. *Because the claimed subject matter lacks a practical application of a judicial exception (law of nature, abstract idea, naturally occurring article/phenomenon) since it fails to produce a useful and tangible result. The 35 U.S.C. §101 rejection is maintained.*

Applicant's argument, page 14, Section (35 U.S.C. §103 Rejections), that "The Office Action admits that the "combination [of APA and Lomet] fails to disclose in detail" this limitation. The Office Action alleges that "a user-specified value that corresponds to the amount of work that is required during a redo phase of recovery" is disclosed in Haderle in Col. 2 lines 29-43 and Col. 6, lines 19-55." The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the instant application relates to a method for controlling downtime during the recovery of database systems; see specification paragraph [0003].

Further, in paragraph [0010], APA discloses one method of making the updated data recoverable is to write redo records into a redo log file in nonvolatile memory. The redo records contain a description

of the changes that were made by a particular transaction ("change information") that will enable a recovery process to reapply the changes in the event of a failure.

Paragraph [0013], for example, FIG. 1 illustrates a redo-based recovery mechanism that can be used to perform changes that are recorded in a redo log file in the event of a failure in the database system.

Accordingly, Haderle discloses a method of DBMS restart recovery that allows transactions to access the data being recovered; see col. 2, lines 45-50. Further, in col. 6, line 32 to col. 7, line 21, Haderle discloses each record update results in the writing of an undo/redo record to a transaction recovery log. The transaction recovery log entry for updating record includes a field identifying the record, a field containing the offset within the record to the data change, an UNDO field containing the old data value, and a REDO field containing the new data value. Assuming failure occurs after the updates to records have been committed, but before the changes were staged to stable storage, restart recovery processing will retrieve the version of the page that is on stable storage into memory and then use the REDO portion of the recovery log records to update records.

Lomet discloses the use of the ULOG can be optimized by making sure that the contents of an undo log buffer are written to a ULOG only when necessary. The undo buffer need only be stored to a ULOG when a block containing uncommitted data from a current transaction is written to persistent storage; col. 15, line 61 to col. 16, line 16.

Thus, the combination of APA in view Haderle and further in view of Lomet discloses the claimed limitations.

Furthermore, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

MPEP 2111: During patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification" Applicant always has the opportunity to amend

the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969). The court found that applicant was advocating ... the impermissible importation of subject matter from the specification into the claim. See also In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997) (The court held that the PTO is not required, in the course of prosecution, to interpret claims in applications in the same manner as a court would interpret claims in an infringement suit. Rather, the "PTO applies to verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definition or otherwise that may be afforded by the written description contained in application's specification.").

The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. In re Cortright, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999).

For the above reasons, it is believed that the last Office Action dated 21 September 2007 was proper. Therefore, the rejection is maintained.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8, 10-17, 19 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: "determining a required recovery time, wherein the required recovery time indicates a maximum length of time that is to be allowed for recovering after said database system failure".

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-9 and 19 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

As set forth in MPEP 2106:

As per independent claims 1 and 9

The independent claims 1 and 9 are directed to a method, in which a plurality of records have to be processed after the failure. Therefore, the mechanism for controlling the amount of recovery downtime after a database system failure as the purpose of the invention. The claimed subject matter lacks a practical application of a judicial exception (law of nature, abstract idea, naturally occurring article/phenomenon) since it fails to produce a useful and tangible result.

The dependent claims are rejected under the same rational.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6-12 and 15-20 are rejected under 35 U.S.C.103(a) as being unpatentable over "background, specification page 1, paragraph [0004] to page 9, paragraph [0028]" - (Applicant Admitted Prior Art) ("APA") in view of U.S., Patent 5,485,608 issued to Lomet et al., ("Lomet"), and further in view of U.S., Patent 6,185,699 issued to Haderle et al., ("Haderle").

As per claim 1, APA discloses a method comprising the steps of:

"storing a checkpoint value" (see Fig. 1, item 158) "that indicates which records of a plurality of records have to be processed after the failure" (i.e., data recoverable is to write redo records into a redo log file in nonvolatile memory, in which the redo records containing a description of the changes that were made by a particular transaction, enabling a recovery process to reapply the changes in the event of a failure; see page 3, paragraph [0010]), "wherein the plurality of records indicate changes for a plurality of data blocks" (i.e., data items or data blocks; see page 4, paragraph [0013] and Fig. 1, item 128); and

"writing changes from volatile memory to nonvolatile memory to advance the checkpoint value" (i.e., checkpoint process then marks as needing checkpointing all buffers in buffer cache that contain changes since being loaded from database; see page 7, paragraph [0023] and Fig. 1).

APA fails to explicitly disclose reducing the recovery time after a failure. However, Lomet discloses reducing the recovery time after a failure (see Lomet col. 13, lines 59-61). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of APA by reducing the recovery time after a failure as disclosed by Lomet (see Lomet col. 20, lines 32-44 and col. 22, lines 31-36). Such a modification would allow the method of APA to provide efficient recovery using techniques of state identifiers which promote easy system crash recovery as well as media failure recovery (see Lomet col. 2, lines 46-50), therefore, improving, the accuracy and the reliability of the method and system for controlling recovery downtime.

While the combination of APA/Lomet substantially discloses the claimed invention, the combination fails to disclose in detail and based on a user-specified value that corresponds to how much work will be required during a redo phase of recovery. However, Haderle discloses on a user-specified value that corresponds to how much work will be required during a redo phase of recovery (see Haderle col. 2, lines 29-43 and col. 6, lines 19-55). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of APA/Lomet by how much word will be required as disclosed by Haderle (see Haderle col. 6, lines 19-55). Such a modification would allow the

method of APA/Lomet to provide a method and processing system availability without loss of data integrity (see Haderle col. 1, lines 9-12).

As per claim 2, APA further discloses "maintaining, in volatile memory, one or more sorted buffer queues" (i.e., buffer cache (102) containing one or more sorted buffers queues (104, 106, 108 and 110); page 4, paragraph [0013]), "wherein each sorted buffer queue includes queue entries that are inserted into said sorted buffer queue based on an index value associated with said queue entry" (i.e., buffers queues (104, 106, 108 and 110) containing data loading into (inserting into) volatile memory from data items (142, 134, 130 and 138), which are respectively data blocks (A), (B), (C) and (D) (index value); see page 4, paragraph [0013]), "wherein each queue entry reflects a change to a data block of the plurality of data blocks" (i.e., data items (142, 134, 130 and 138) in the database reflecting changes that have been recorded; see page 4, paragraphs [0014 and 1015]).

As per claim 3, APA further discloses "wherein the one or more sorted buffer queues are one or more circular sorted buffer queues" (i.e., buffer cache (102) containing one or more sorted buffers queues (104, 106, 108 and 110); page 4, paragraph [0013]), and "wherein a modulus operation is used to identify the index value associated with each circular sorted buffer queue entry when inserting a queue entry into the circular sorted buffer queue" (i.e., buffers queues (104, 106, 108 and 110) containing data loading into (inserting into) volatile memory from data items (142, 134, 130 and 138), which are respectively data blocks (A), (B), (C) and (D) (index value); see page 4, paragraph [0013]).

As per claim 6, APA discloses "updating the checkpoint value comprises: updating the checkpoint value to equal a byte offset in a redo log associated with the queue entry in the one or more sorted buffer queues that is associated with the least recently modified buffer in any queue entry in the one or more sorted buffer queues" (i.e., byte offset from the binning of the log file, where all redo records that stored in the log file before the location identified by the checkpoint value are guaranteed to be reflected in the database; see page 7, paragraph [0022]).

As per claim 7, in addition to claim 10, APA further discloses "maintaining, in volatile memory, one or more sorted buffer queues" (i.e., buffer cache (102) containing one or more sorted buffers queues (104, 106, 108 and 110); page 4, paragraph [0013]), "wherein each partially sorted buffer queue includes queue entries that are inserted into said partially sorted buffer queue based on an index value associated with said queue entry" (i.e., buffers queues (104, 106, 108 and 110) containing data loading into (inserting into) volatile memory from data items (142, 134, 130 and 138), which are respectively data blocks (A), (B), (C) and (D) (index value); see page 4, paragraph [0013]), "wherein each queue entry reflects a change to a data block of the plurality of data blocks" (i.e., data items (142, 134, 130 and 138) in the database reflecting changes that have been recorded; see page 4, paragraphs [0014 and 1015]).

As per claim 8, in addition to claim 1, APA discloses "a byte offset to an identified redo log file" (i.e., byte offset which representing (identifying) redo record; see page 7, paragraph [0023]).

As per claim 9, in addition to claim 1, APA fails to explicitly wherein the required recovery time indicates a maximum length of time that is to be allowed for recovering after said database system failure. However, Lomet discloses wherein the required recovery time indicates a maximum length of time that is to be allowed for recovering after said database system failure (see Lomet col. 13, lines 59-61). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of APA by APA further discloses wherein the required recovery time indicates a maximum length of time that is to be allowed for recovering after said database system failure as disclosed by Lomet (see Lomet col. 14, lines 62-67). Such a modification would allow the method of APA to provide efficient recovery using techniques of state identifiers which promote easy system crash recovery as well as media failure recovery (see Lomet col. 2, lines 46-50), therefore, improving, the accuracy and the reliability of the method and system for controlling recovery downtime.

As per claim 10, in addition to claim 1, APA further discloses "a computer-readable storage medium carrying one or more sequences of instructions, wherein execution of the one or more sequences of instructions by one or more processors causes the one or more processors causes" (i.e., one or more processes (sequences instructions) executing on a database server; see page 2, paragraph [0007]) to perform the steps of "maintaining a checkpoint value that indicates which records of a plurality of records have to be processed after the failure, wherein the plurality of records indicate changes for a plurality of data blocks" (i.e., data recoverable is to write redo records into a redo log file in nonvolatile memory, since the redo records containing a description of the changes that were made by a particular transaction; see page 3, paragraph [0010]).

As per claim 11, in addition to claim 2, APA further discloses "execution of the one or more sequences of instructions by one or more processors causes the one or more processors to further perform" (i.e., processes executing on a database server; see paragraph [0007]).

As per claim 12, the limitations of claim 12 are similar to claim 3, therefore, the limitations of claim 12 are rejected in the analysis of claim 3, this claim is rejected on that basis.

As per claim 15, APA discloses "updating the checkpoint value comprises: updating the checkpoint value to equal a byte offset in a redo log associated with the queue entry in the one or more sorted buffer queues that is associated with the least recently modified buffer in any queue entry in the one or more sorted buffer queues" (i.e., byte offset from the binning of the log file, where all redo records that stored in the log file before the location identified by the checkpoint value are guaranteed to be reflected in the database; see page 7, paragraph [0022]).

As per claim 16, in addition to claim 7, APA further discloses "execution of the one or more sequences of instructions by one or more processors causes the one or more processors to further perform" (i.e., processes executing on a database server; see paragraph [0007]).

As per claim 17, the limitations of claim 17 are similar to claim 8, therefore, the limitations of claim 17 are rejected in the analysis of claim 8, and this claim is rejected on that basis.

As per claim 18, in addition to claim 9, APA further discloses "a computer-readable storage medium carrying one or more sequences of instructions, wherein execution of the one or more sequences of instructions by one or more processors causes the one or more processors causes" (i.e., one or more processes (sequences instructions) executing on a database server; see page 2, paragraph [0007]) to perform the steps of "maintaining a checkpoint value that indicates which records of a plurality of records have to be processed after the failure, wherein the plurality of records indicate changes for a plurality of data blocks" (i.e., data recoverable is to write redo records into a redo log file in nonvolatile memory, since the redo records containing a description of the changes that were made by a particular transaction; see page 3, paragraph [0010]).

As per claims 19 and 20, the limitations of claims 19 and 20 are similar to claims 1 and 18, therefore, the limitations of claims 19 and 20 are rejected in the analysis of claims 1 and 18, these claims are rejected on that basis.

Claims 4 and 13 are rejected under 35 U.S.C.103(a) as being unpatentable over applicant' background, specification page 1, paragraph [0004] to page 9, paragraph [0028], (Applicant Admitted Prior Art) ("APA") in view of U.S., Patent 5,485,608 issued to Lomet et al., ("Lomet"), and further in view of U.S., Patent 6,185,699 issued to Haderle et al., ("Haderle") as applied to claims 1-3, 6-12 and 15-20 above, and further in view of "ARIES-RRH: restricted repeating of history in the ARIES transaction recovery method" issued to Mohan et al., ("Mohan").

As per claims 4 and 13, in addition to claim 1, "execution of the one or more sequences of instructions by one or more processors causes the one or more processors to further perform" (i.e., processes executing on a database server; see paragraph [0007]). APA fails to explicitly disclose maintaining a count of the queue entries in each of the one or more sorted buffer. However, Mohan discloses a method for maintaining a count of the queue entries in each of the one or more sorted buffer (see Mohan page 719, col. 1, paragraph (2), lines 9-16). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the method of APA by maintaining a count of the queue entries in each of the one or more sorted buffer as disclosed by Mohan (see Mohan page 719, col. 2, last paragraph). Such a modification would allow the method of APA to provide reducing the number of I/Os to database pages during the redo pass by avoiding reading into the buffer pool those pages, in the dirty data list, for which log records written by only loser transactions are encountered (see Mohan page 721, col. 2, last paragraph), therefore, improving the accuracy of the method and system for controlling recovery downtime.

Claim Objections / Allowable Subject Matter

Claims 5 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

CONTACT INFORMATION

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEAN B. FLEURANTIN whose telephone number is 571-272-4035. The examiner can normally be reached on 7:05 to 4:35.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOHN E BREENE can be reached on 571-272-4107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jean Bolte Fleurantin

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